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PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

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(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (continued)

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The meeting was called to order at 10.30 a.m.

HUMAN RIGHTS OF INDIGENOUS PEOPLES:

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (agenda item 7) (continued) (E/CN.4/Sub.2/1997/CRP.1; E/CN.4/Sub.2/1997/15 and 17 and Corr.1)

1. Mrs. DAES (Chairperson-Rapporteur of the Working Group on Indigenous Populations) introducing the report of the Working Group on its fifteenth session (E/CN.4/Sub.2/1997/CRP.1), said that it was regrettable that owing to the heavy workload of the Languages and Publishing Services the edited report, which would appear as document E/CN.4/Sub.2/1997/14, was not yet available.

2. The meetings of the Working Group, which acted together in a harmonious and collegiate manner, had had a record attendance of 887 people. Those participating had included ministers, senior government officials, chiefs and ambassadors of indigenous nations, senior representatives of the United Nations system and members of the academic community, including young students from all over the world. The Working Group offered a unique opportunity for speakers to express their points of view in a forum in which all participants listened with attention and respect. It thus contributed directly, through a process of constructive dialogue, to the reconciliation process between indigenous communities and Governments. It had also become a formidable focus for networking, consultation and the informal exchange of information. Over 50 distinct activities had taken place outside the conference room, including briefings, regional meetings, exhibitions, films, cultural events and informal workshops.

3. The Working Group had again discussed the question of the definition of "indigenous peoples". Her own view could be found in document E/CN.4/Sub.2/AC.4/1997/2. A global definition was not yet possible, as noted in the conclusions and recommendations of the report. The Working Group would, however, continue to be available for discussions of that and other conceptual matters.

4. The Working Group had decided that at its next session it would accept a proposal by indigenous people and consider possible guidelines for private sector mining and energy concerns. More and more companies were establishing economic activities on indigenous lands and there was growing interest in establishing and promoting examples of good practices, to which the Working Group considered that it could make a contribution.

5. The thematic approach under the agenda item "Review of developments" had been justified by the decision to highlight the topic of "environment, land and sustainable development", on which the Working Group had heard 140 oral statements. At its next session it would therefore highlight the theme of "Indigenous peoples, education and language", issues of great concern to indigenous peoples. The United Nations Educational, Scientific and Cultural Organization (UNESCO) would have an opportunity to contribute both written material and expert participation. Through such thematic sessions it was hoped to stimulate a wider involvement of United Nations agencies in support of the goals of the International Decade of the World's Indigenous People.

6. She noted that in the preliminary working paper prepared by herself, as Special Rapporteur on indigenous people and their relationship to land (E/CN.4/Sub.2/1997/17 and Corr.1), she had considered some of the problems faced by indigenous people in achieving recognition of their lands and examined some recent positive decisions by States. The issue was of overriding importance for indigenous people and the Sub-Commission should continue to give it support.

7. Mr. Alfonso Martínez had presented his third progress report on his study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1996/23). Discussions had also been held about the International Decade of the World's Indigenous People. The United Nations was taking action to implement the Programme of Activities under the Decade, but its full realization was significantly hindered by the relatively limited funds and reduced human resources available. Moreover, some United Nations organizations were not yet committed to making a contribution. She urged the United Nations system as a whole to develop programmes and projects within their areas of competence, with the full participation of indigenous peoples. The Working Group would make its own suggestions on possible themes and approaches at its next session. Lastly, the Working Group had discussed the proposal to establish a permanent forum for indigenous people in the United Nations, focusing on such aspects as the mandate, participation and membership. It was unanimous in believing that indigenous people and States would benefit from improved mechanisms and institutional arrangements. She fully supported the establishment of a forum because it would promote substantive and essential dialogue between indigenous peoples and the Governments of the countries in which they lived.

8. The conclusions and recommendations unanimously adopted by the Working Group appeared in paragraphs 134 to 159 of the report. She hoped that draft resolutions on the various issues would be adopted by consensus.

9. Mr. BOLANOS (Movement against Racism and for Friendship among Peoples), a Nuu-Savi and a member of the Indigenous Joint National Assembly for Autonomy (ANIPA), which played a coordinating role for the indigenous peoples of Central and South America, said that the indigenous peoples in Mexico comprised some 20 million individuals in 56 populations based mainly in the south and centre and speaking 92 languages. The Indian peoples had for centuries struggled to maintain their diversity while resisting efforts to create an artificial, mixed-race State. They were poor and marginalized: the illiteracy rate in the largely indigenous areas was 43 per cent, 58 per cent of five-year-olds did not go to school, a third of six- to fourteen-year-olds could not read or write and about 60 per cent of those aged 12 or more had no opportunity for work. Of those in work, 43 per cent received less than the minimum wage, as a result of which they were obliged to emigrate, mainly to the United States, and there suffer violations of their human rights under a racist and xenophobic anti-immigration law which he urged the Government of the United States to repeal.

10. The poverty of the indigenous peoples, who lacked electricity, drinking water, drainage and medical services, was due to the social and political exclusion to which they had been subjected ever since Mexico had been independent. Neo-liberalism had made no secret of its desire to eliminate the

indigenous peoples through policies undermining every aspect of their way of life. It therefore came as no surprise that social and cultural antagonism frequently expressed itself in political conflict, such as the armed rising of the Zapatista National Liberation Army (ZNLA) in January 1994. In February 1996 the ZNLA and the federal Government had signed the San Andres Agreements on rights and indigenous culture, but the Government had failed to honour them. Indeed, President Zedillo had ordered the army to proceed with a plan of annihilating the indigenous Zapatista communities. Equipped with sophisticated modern weapons, the army had taken up strategic positions and increased its patrols in order to attack Zapatista camps and displace civilian populations, whom they attempted to bribe as a counter-insurgency tactic. The Government maintained the lie that conditions for peace in Chiapas existed and that the Zapatistas should formally integrate themselves into national political life. It was not the ZNLA, however, that constituted the obstacle to peace but the Government itself. Dialogue could only be effective if there was a sincere desire to implement the Agreements. The President had said that he could accept no solution that harmed territorial integrity and the unity of the legal system; but in seeking autonomy the indigenous peoples did not wish to break with the nation State or seek segregation but simply wished for acceptance of their diversity and respect for their rights, so that they could preserve their habitat and culture. It was not so important whether the indigenous peoples owned their lands as whether they had sufficient power to live their lives in accordance with their view of the world.

11. A healthy environment could not exist without proper conservation of the land, which had been the concern of indigenous peoples for hundreds of years. He noted that the world's natural resources were found in the places where indigenous peoples lived. There should be sustainable management of the natural resources on their territories and responsible biotechnology management with their direct participation. States had no reason to deny them that right, which was recognized in such international texts as the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

12. The Mexican Government had declared its support for the draft United Nations declaration on the rights of indigenous peoples and for the establishment of a permanent forum; but those good intentions found no practical expression in Mexico. The international community would be most interested in the report of the Special Rapporteur on the question of torture, who had heard many personal testimonies of torture in Mexico. He urged the Sub-Commission to appoint a special rapporteur to oversee the implementation of the San Andres Agreements and the Indigenous and Tribal Peoples Convention. Peace in Chiapas could be achieved only if there was a political will on the part of the Government to honour its commitment under the San Andres Agreements and withdraw the army from the indigenous areas. Lastly, he stressed that the indigenous peoples of Mexico would accept no modification of the draft United Nations declaration on the rights of indigenous peoples and was opposed to the proposed American declaration on the rights of indigenous peoples, since its content did not reflect the aspirations of the continent's indigenous peoples.

13. Mr. GUISSÉ commended the report of the Working Group on Indigenous Populations and congratulated its Chairperson-Rapporteur, Mrs. Daes, who had devoted herself to the cause of indigenous peoples for 20 years.

14. Mr. FAN Guoxiang thanked the Chairperson-Rapporteur and the other members of the Working Group for their outstanding contributions to its fifteenth session, which had been attended by more participants - some of them government ministers - than even the current session of the Sub-Commission. The Working Group provided a forum for direct dialogue between indigenous populations and Governments, in which due account could be taken of their rights, claims and interests.

15. Centre for Human Rights Fact Sheet No. 9 (Rev. 1), entitled The Rights of Indigenous Peoples, contained much valuable information. While he did not claim to be an expert on the question, he suspected, however, that the figure of 300 million indigenous people cited in paragraph 1 of that publication was an overestimate. It was important to clarify the distinction between indigenous peoples and minorities. In that regard, Mr. Guissé had made an important contribution to the Working Group's proceedings, reflected in paragraph 37 of its report (E/CN.4/Sub.2/1997/CRP.1). In order to pinpoint the specific features of indigenous peoples' interests and demands, it might be desirable to have some common understanding in that regard, and to work towards a generally acceptable definition of the concept of indigenous peoples.

16. Mr. MAXIM said that the Working Group had greatly enhanced his knowledge of the question of indigenous populations and of the extent of the problems they faced, to which he had hitherto accorded too little importance. While a great deal remained to be done before those populations enjoyed the dignity and rights - including the right to survival - to which they were entitled, much progress had been made, and the Working Group was to be congratulated on its devotion to that noble cause.

17. Mrs. MBONU said that Mrs. Daes' devotion to the question of indigenous populations recalled that of Mr. Khalifa to the topic of apartheid. The advancement of indigenous peoples' cause was to a large extent attributable to the Working Group's efforts. It was regrettable, however, that although the question of the distinction between the concepts of indigenous populations and minorities had long since been resolved, the issue continued to drag on from year to year. The Sub-Commission seemed to be going back to square one, merely to please some observer Governments that were reluctant to recognize indigenous populations' status as peoples.

18. If the Working Group were to be wound up, indigenous people would no longer have a forum in which to express their views. The decision to move further towards the establishment of a permanent forum for indigenous people was thus to be welcomed, as was the study being undertaken by Mrs. Daes on indigenous people and their relationship to land. In view of the importance of that issue to indigenous peoples themselves, the preliminary working paper on the question (E/CN.4/Sub.2/1997/17) merited serious debate in the Sub-Commission.

19. The United Nations was sometimes accused of being a toothless organization that achieved little. The achievements of the Working Group, whose fifteenth session had been attended by a record number of participants, showed how untrue that allegation was. She thus wished to thank Mrs. Daes for her dynamism and tireless devotion to the topic, as well as the

Government of Chile for hosting the second Workshop on a permanent forum for indigenous people, held in Santiago, Chile from 30 June to 2 July 1997.

20. Mr. ALI KHAN said that he for one saw no necessity for hide-bound definitions of minorities and indigenous peoples. The problems faced by indigenous peoples were so specific to them that they could not be equated with the problems of minorities. The question of land, for instance, would never arise in a context of minorities.

21. Land was the most fundamental problem of the indigenous populations, and one that brooked no delay. Perhaps the time had come to move away from a theoretical and academic approach, towards practical efforts to secure dialogue with Governments on issues such as allocation of land to indigenous people; for in his view the rights of indigenous populations and of minorities should be the Sub-Commission's two highest priorities. He also advocated an inductive approach that moved from the particular to the general, from the identification of vulnerable groups to studies designed to solve their problems.

22. Mr. WEISSBRODT praised the outstanding and inspirational work done by all members of the Working Group, and especially by its Chairperson-Rapporteur, to promote the rights of indigenous people - work of which the Sub-Commission should be very proud. The Working Group was a remarkable institution, providing the foremost opportunity for indigenous representatives to meet, exchange views and experiences, and start to see their problems in a unified way. As well as enabling them to draw up the draft United Nations declaration on indigenous rights, it also provided an opportunity for dialogue with Governments. While it was very encouraging to see so many Governments attending the Working Group and making presentations, that function needed to be promoted and pursued even more assiduously. The Working Group also played a valuable focusing role: the following year it would be looking at educational issues, just as, in the past, it had focused on health issues.

23. Mrs. WARZAZI said that the Sub-Commission should be proud of the achievements of the Working Group, which owed its international prestige to the inspirational dynamism of Mrs. Daes and the remarkable contributions of its four other members. Redressing the wrongs done to indigenous peoples would require great perseverance and patience, qualities the Working Group would continue to provide, with, it was to be hoped, ever greater success. Governments must "Render unto Caesar that which is Caesar's": she was thinking in particular of Australia, where a commission had recently submitted a report to Parliament and Government on the fate of thousands of aborigine children permanently separated from their parents in the period up until 1965, to be brought up in education centres, who had been subjected to ill-treatment, in some cases sexually abused, or even left to die. Those wrongs were soon to be acknowledged by an official apology - without, however, much enthusiasm on the part of the Prime Minister. Those deprived of their civilization, their culture and their ancestral lands must be compensated, and their dignity restored, so that they would once again be able to lead lives in which their aspirations for respect, security, progress and equal access to State protection were fully met.

24. Mr. LOPEZ (International Educational Development) said that his organization considered the work of the Sub-Commission's Working Group on Indigenous Populations to be one of the most important contributions to human rights in the United Nations system, and welcomed the continuing attention paid to the issue of land rights of indigenous peoples. The excellent preliminary working paper contained in document E/CN.4/Sub.2/1997/17 reflected the Special Rapporteur's clear understanding of the importance of the topic.

25. The very minimum that States must do was to ensure that indigenous peoples' lands were not deliberately or permanently contaminated. With regard to the situation of the Yanomami peoples in Brazil, referred to in paragraph 42 of the report, the Inter-American Commission on Human Rights had found Brazil to be in violation of its obligations for failure to protect the Yanomami, and 10 years previously had ordered Brazil to secure the removal of the invaders. To date, Brazil had been unwilling or unable to enforce that decision. More serious was the planning and deliberate and permanent destruction of Indian lands, such as occurred in the United States of America, where the Government had used Indian lands for testing munitions containing depleted uranium, and for the dumping of over 800 million pounds of nuclear waste. According to a recent report of the International Action Center, there were over 1.25 billion pounds of nuclear waste in the United States alone, 70 per cent of it on Indian lands. Because of the long half-life of depleted uranium (4.5 billion years), lands where weapons containing depleted uranium had been tested in the atmosphere were permanently contaminated.

26. Particularly insidious were the means whereby the United States had seized Indian lands on which to carry out depleted uranium weapons testing, under the pretext of national security, which was considered to override Indian land claims. For example, Yakima lands in Washington State seized by the Government were now to be returned to the Yakima. However, the land was now permanently contaminated, and if reoccupied would certainly cause the Yakima to suffer the illnesses and congenital abnormalities associated with direct exposure to depleted uranium. To the best of his organization's knowledge, no Indian nation seeking the return of its lands had been warned of the possible damage or contamination resulting from many years of testing. The United States had also tested depleted uranium weapons in other territories, such as Okinawa, prompting the Japanese Government to protest at the late notification it had received. The United States Government's response to Japan that depleted weapons were "conventional" was false, if not criminal.

27. The United States had also carried out tests in Panama during 1993 and 1994, again without notifying the Government. When the matter was first raised in the wake of the July 1997 Freedom of Information Act, the United States Ambassador had denied that depleted uranium weapons had been tested in Panama, and the Pentagon had suppressed all references thereto in its report. Subsequently, however, the United States Southern Command had admitted to the testing, which the Government of Panama denied having authorized. His organization was endeavouring to ascertain whether those tests had been carried out on indigenous lands.

28. A critical issue for indigenous people whose lands had been contaminated was whether the lands could be cleaned up, and if so, by whom and at whose

expense. Studies conducted by the United States military indicated that clean-up operations were perfunctory, and that at best only 25 per cent of the depleted uranium could be recovered. Damage to or contamination of Indian lands was an issue that the Working Group and the Special Rapporteur should take into account in their continuing work on the topic.

29. Mr. JUÁREZ MATEO (American Association of Jurists) said that indigenous peoples were committed to living in harmony with all peoples and nations on the basis of a balance between mother nature and human beings. Five hundred years after the invasion of the Americas, the voice of indigenous peoples was at last beginning to be heard, and they were taking their rightful place within the United Nations. The four peoples of Guatemala, especially the Mayan people, joined with Governments, experts, representatives and indigenous leaders in seeking solutions to the problems afflicting mankind.

30. Guatemala had entered a new phase with the signing of the peace agreements, the implementation of which would allow the building of a new nation characterized by ethnic, cultural and linguistic diversity. Unfortunately, there were still enemies of peace who were actively trying to undermine that process. Moreover, the political will of the governing party appeared to be wilting under intense pressure. Neo-liberal economic policy threatened a fragile economy, and the sale of State assets, such as the telecommunications company GUATEL, to transnational corporations would be of little benefit to the people of Guatemala.

31. The peace agreements had only been partially implemented: the administration of justice had not yet reached indigenous peoples; impunity was the norm; discrimination on the basis of language was practised, with the evidence of 36 witnesses from the Quiché linguistic community being ruled inadmissible during the trial of a former chief of police accused of over 150 crimes; there was little help offered to former insurgents; the land problem had yet to be resolved; Congress had passed laws that were contrary to the spirit of the peace agreements; no action had been taken against paramilitary groups and death squads; the safety of witnesses was not guaranteed; and drug traffickers and kidnappers with connections at the highest levels of society were tolerated.

32. He urged, through the Chairman, all Governments and international agencies to support the Agreements, and to channel aid directly and fairly to the needy sectors rather than via the Government. The peace process in Guatemala was going through a fragile phase, and needed to be supported, revitalized, promoted and implemented. His people was doing its part, and he acknowledged the political will shown by the Government of Guatemala, but dialogue and good intentions had to be translated into deeds.

33. Ms. YAMBERLA (International Organization for the Development of Freedom of Education) said that 20 years after the question of indigenous peoples had first been raised on the international agenda, the participation of indigenous peoples in various United Nations activities had enriched the Organization, reaffirmed their status as peoples and nations, and confirmed their desire to seek solutions to situations in which their human rights were violated. Human rights education had emerged as a priority for the construction of a humanist society, and a global campaign was needed to raise awareness of the rights of

indigenous peoples. As the mid-point of the United Nations International Decade of the World's Indigenous People approached, it was becoming clear that greater efforts were needed by all concerned to achieve the stated objectives of the Decade. There were encouraging signs that the political will was there, but only the first steps had been taken in a long process.

34. She supported the various initiatives to promote the rights of indigenous peoples. The adoption of a declaration on the rights of indigenous peoples must be given high priority, as there was a close relationship between the lack of such an instrument and the atrocities inflicted on indigenous peoples. The purported need for a definition of indigenous peoples should not be allowed to hold up the process. The creation of a permanent forum for indigenous peoples would require widespread consultation and would ensure that initiatives to promote indigenous rights corresponded to the realities faced by indigenous peoples. However, to the many indigenous peoples who had not yet been able to participate in international initiatives, such a forum must seem a long way off. The United Nations Voluntary Fund for Indigenous Populations should be used to allow at least one representative of the indigenous peoples from each country to be present when the Working Group on Indigenous Populations considered the draft declaration and at sessions of the Commission on Human Rights. She hoped there would be sufficient political will to set up a mechanism whereby indigenous peoples would be able to participate fully in such forums, as befitted their status as nations and peoples with a history predating by far that of the nation-State.

35. She wished to draw some specific situations in Latin America to the attention of the Sub-Commission. In the Amazon basin, the existence of indigenous peoples on their ancestral lands was threatened by the presence of armed forces and the activities of oil, timber and mining companies. In Chile, the survival of the Pehuenche people of Alto Bío Bío was threatened by the construction of six hydroelectric dams, and the Mapuche-Lafquenche communities were affected by the construction of the coastal road. Other situations where the human rights of indigenous peoples were threatened had been brought to the attention of the Working Group on Indigenous Populations, including the instability in indigenous regions of Mexico, and the violent social unrest in Honduras, where 37 indigenous people had had to take refuge in the Costa Rican Embassy. Other countries in which the situation gave rise for concern included Guatemala, where the implementation of peace agreements needed to be monitored, Colombia, where the declaration of neutrality by the Urawa people of Antioquia had to be respected, and Ecuador, where human rights were violated and the political, economic and social system was in a critical state. Those situations showed that all moves to build peace and safeguard the human rights of indigenous peoples deserved the fullest support.

36. Mr. YUMBAY (International Peace Bureau) said that one of the positive results of the International Decade of the World's Indigenous People had been the consolidation of the political will of indigenous peoples to work together with others in the search for solutions to the serious problems affecting mankind. The international community should take steps to promote multiculturalism and multi-ethnicity. In the context of Ecuador, where indigenous peoples made up 45 per cent of the population and represented 12 nationalities, that implied a society made up of different peoples.

37. He paid tribute to the good work of non-governmental organizations (NGOs) which contributed to United Nations activities, and said that, given the importance attached by the United Nations to indigenous peoples, mechanisms were urgently needed to ensure the participation of indigenous peoples, with appropriate status accorded to them.

38. Society as a whole benefited from the traditional knowledge, technologies and values of indigenous peoples, who also made a major contribution to the economies of the countries in which they lived. They also had an important contribution to make to the development of democratic systems.

39. The indigenous peoples of Ecuador were convinced that a coherent and binding declaration on the rights of indigenous peoples was needed. Their autonomy would ensure that they would make a contribution to the welfare of their country and to the strengthening of a multicultural democracy of peoples.

40. They had been instrumental in the downfall of the Bucaram Government and in ending corruption and authoritarianism. The Confederation of Indigenous Peoples of Ecuador believed the Ecuadorian Constitution to be fundamentally centralist and segregationist. However, various sectors of society had gradually managed to break away from the conformist ideology imposed on the country; for example, there had been the vote for women in 1928, land reform in 1964, the introduction of bilingual education in 1980 and bilingual intercultural education in 1988 and the indigenous uprising of 1990 following the debate on multi-nationality. In the 1990s, campaigns by indigenous people had led to the recognition of the territories of some nationalities in the Amazon and to discussions on a new land reform bill. As a result of the events of 1997, the interim Government had undertaken to convene a national constituent assembly to draw up constitutional reforms that would reflect the true situation in the country, lay the basis for a multicultural society and end the exclusion of the 12 Indian peoples of Ecuador. The Government's reluctance to convene the assembly had led to a day of protest in August 1997. It would be appropriate, in the context of the International Decade of the World's Indigenous People, for the Ecuadorian Government to ratify the ILO Indigenous and Tribal Peoples Convention No. 169 (1989) and to move ahead with the work of the national constituent assembly.

41. He further wished to call attention to the activities of multinational corporations in indigenous lands, such as for example, the irreparable damage caused by Texaco to Ecuadorian Amazonia. Mining companies like the RTZ were also operating in those areas, despite the protests of indigenous peoples. The international community had a responsibility to protect the environment for future generations and not to allow economic globalization to destroy the heritage of mankind. The indigenous peoples of Ecuador called on the international community to do all in its power to lay the foundations for a respectful and deeply humanistic society, and to ensure the survival of indigenous peoples.

42. Mr. MBOMIO (North-South XXI) said that the conditions in which indigenous peoples in Mexico had to live were proof of how whole peoples could be marginalized. Some 46 per cent of the indigenous population was

illiterate, 76 per cent had no basic education, and their houses had no electricity or drinking water. Such conditions were not the product of a lack of integration, but the result of an unjust system. Indigenous peoples were the poorest of the poor in an impoverished and profoundly unequal society. Ironically, on the very day that the North American Free Trade Agreement entered into force, in February 1994, there had been an uprising by the indigenous people of Chiapas, leaving Mexico once more at the forefront of an expanding fourth world.

43. Mr. MATIAS (North-South XXI) said that much of the current thinking of the indigenous peoples of Mexico could be summed up in the right to autonomy. Isolated requests for a new road, a bilingual school, small loans, a clinic or running water were increasingly taking the form of a broader, consolidated agenda. Their problems were the problems of the entire Mexican nation. Autonomy and self-determination would require the redistribution of national power in a multicultural context. The indigenous peoples of Mexico and the Zapatista National Liberation Army had proposed to the Government that there should be a new political agreement which would provide a constitutional basis for autonomy and self-determination for the indigenous peoples of Mexico. Progress towards that goal was irreversible, despite the many obstacles.

44. The relationship between the indigenous peoples and the State was fragile, and needed to be reinforced by dialogue and consensus, on the basis of the San Andres Agreements concerning the rights and culture of indigenous peoples signed at San Andrés in February 1996 between the Zapatista National Liberation Army and the federal Government. The agreement established a new relationship between indigenous peoples and society and the State. The joint proposal contained the following commitments to be undertaken by the Government vis-à-vis the indigenous peoples of Mexico: recognition of the indigenous peoples in the Constitution and of their right to self-determination through constitutionally based autonomy; increased political participation and representation; full access to justice; respect for human rights; promotion of cultural development; support for community education and training; guaranteed access to basic necessities; promotion of production and employment; and protection for indigenous migrants. Eighteen months had passed and the federal Government still showed no sign of complying with the agreements, either in legal or in practical terms.

45. In its statement at the fifteenth session of the Working Group on Indigenous Populations, the Mexican Government had advocated the speedy adoption of the draft United Nations declaration on the rights of indigenous peoples and expressed support for the activities of the International Decade of the World's Indigenous People and the establishment of a permanent forum for indigenous people in the United Nations. The indigenous peoples urged the Mexican Government to put those sentiments into practice by complying with the agreements concluded and giving their legitimate demands a constitutional basis.

46. Ms. KUOKKANEN (Saami Council), speaking on behalf of the Saami people of Finland, Sweden, Norway and Russia, said that land and natural resources were absolutely fundamental to the Saami. Little progress had been made to date in addressing the issue of land and resource rights. Traditional land and water uses, such as reindeer herding, fishing, hunting and gathering, enjoyed only

limited legal protection against external claims and users. However, the ratification by Norway of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) was a welcome move and set an example for other Governments.

47. In her preliminary working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1997/17), the Special Rapporteur had shown the urgent need for cooperation between States and indigenous peoples to solve existing problems. It was imperative that she should continue her work on the subject.

48. The Working Group on Indigenous Populations rightly stated in its report, which would appear as document E/CN.4/Sub.2/1997/14, that education systems failed to recognize and promote indigenous entities and that educational curricula should reflect their history, culture and traditions. The Saami Council strongly endorsed the Working Group's recommendation to highlight the issue of "indigenous people: education and language" at its sixteenth session.

49. The key word for the Saami people was "self-determination", which was one of the most important goals of the International Decade of the World's Indigenous People. National Governments must commit themselves to cooperation and concrete action in pursuance of the objectives of the Decade.

50. The establishment of a permanent forum for indigenous people was an integral part of the reform process of the United Nations. The Economic and Social Council provided the natural framework for such a forum. The second workshop on the forum held in Chile in June 1997 had shown that the will existed to make it a reality within the Decade. The proposal of the Nordic countries that it should be composed of indigenous and government representatives in equal numbers and on an equal footing was warmly welcomed by many indigenous peoples. The Saami Council strongly endorsed the recommendations by the workshop and the Working Group on Indigenous Peoples to the Commission on Human Rights that it should submit the issue of the establishment of the forum to the Economic and Social Council for action as soon as possible.

51. The Council also urged speedy adoption of the draft United Nations declaration on the rights of indigenous peoples without any weakening of the text.

52. Mr. LEBLANC (Franciscans International) said that the way of life of indigenous peoples was deeply rooted in their relationship to land and nature. In her working paper (E/CN.4/Sub.2/1997/17), the Special Rapporteur had attributed the deterioration of indigenous societies to denial of their rights to land, territory and resources. Historically, those rights had been constantly neglected and infringed. In Mexico, for example, the landowners had kept the best land for themselves and driven the indigenous populations into marginal regions where the land was unsuitable for agricultural production. The Government had sided with the landowners and the adverse social, economic and environmental impact of its policy relegated the indigenous communities to the lowest level of society. The existing authorities, ignoring the inherent reality of unjust land distribution, claimed that there was no land left to distribute. Many indigenous

communities had therefore taken matters into their own hands, taking back the land they needed to survive and often suffering bloody repression by the security forces and the private guards of the landowners.

53. Indigenous peoples were not given a say in the planning of development programmes in their territories owing to racism and a scornful attitude to their knowledge and culture on the part of the authorities and dominant societies. Such programmes were often contrary to their priorities and interests and ignored the prospective impact on the environment and the future of indigenous communities. Money and profit were apparently the sole motivating force. For example, the Mexican authorities had promoted the intensive cultivation of eucalyptus trees by an agro-industrial company in the State of Chiapas without warning the indigenous communities that the land would soon be left infertile. Such fundamental violations of the rights of ownership, use and control of land and territory were at the origin of other injustices and human rights violations.

54. The Mexican Government had signed the San Andrés Agreements concerning the rights and culture of indigenous peoples with the Zapatista National Liberation Army (ZNLA), the most representative indigenous organization in Mexico, in February 1996 and had notoriously failed to comply with their provisions. Governments in many other parts of the world flouted similar commitments.

55. He was deeply concerned at the militarization of indigenous regions in Mexico. Associated human rights violations included arbitrary detention and torture of indigenous leaders and harassment and intimidation of entire communities.

56. His organization recommended that the Sub-Commission should give special attention to violation of the rights of ownership, use and control of land, territory and resources; focus on countries in which development programmes in indigenous regions were implemented without consultation with the communities and without concern for the environmental consequences; request the Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations to include the case of Mexico in his final report; and urge the Government of Mexico to demilitarize the indigenous regions and ensure that the security forces acted with full respect for human rights.

57. Ms. ZALABATA (Women's International League for Peace and Freedom) said that globalization policies purportedly designed to improve the quality of life were posing a threat to indigenous peoples. A classic example was the "diversity of the human genome" project, under which genetic resources were extracted from indigenous peoples to be frozen, studied and patented without their knowledge or consent. The use of chemicals for aerial spraying in Sierra Nevada de Santa Marta in Colombia had resulted in the outbreak of diseases previously unknown in the area and the birth of children with congenital deformities.

58. It was imperative that the United Nations should back up its studies of the situation of indigenous peoples with practical initiatives and machinery to protect their collective rights and different lifestyles.

59. The international community must take steps during the International Decade of the World's Indigenous People to create the conditions for solid and lasting peace. The permanent forum for indigenous people in the United Nations would produce the mechanisms needed for their survival.

60. She expressed strong support for the study of indigenous people and their relationship to land and for the draft United Nations declaration on the rights of indigenous peoples.

61. Turning to the situation in Colombia, she said that while the indigenous communities greatly appreciated the recognition accorded to them in the Constitution and Act 21 of 1991 ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), they had been disillusioned by events in the intervening six years. Over 40 indigenous leaders or activists had been killed each year by the army, the police, paramilitary groups, drug traffickers, guerrillas or assassins hired by those opposed to their territorial rights.

62. Transnational companies, encouraged by the globalization of the Colombian economy, invaded their territory attracted by oil and mining opportunities, gene bank projects and the building of hydroelectric and thermo-electric power stations, roads, harbours and the Atrato-Truandó canal. The latter project and the associated increase in land values had led to the mass displacement by the military of black communities in the Pacific region. For the U'wa people, oil extraction was an intolerable assault on Mother Earth and had led to serious clashes with the oil companies. They had received support from company employees, teachers, health workers, peasants and the local authorities.

63. The Government, on the other hand, supported the oil companies and was endeavouring to amend existing legislation so as to change the definition of indigenous territory, requiring prior State recognition of its status in violation of ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). Under the new definition, the U'wa would retain only 10 per cent of their territory. The Government had also drafted a decree regulating consultations with indigenous peoples which would derogate from a previous legal provision prohibiting the granting of licences for projects that undermined the cultural, economic or social integrity of indigenous peoples. It should be noted in that connection that the licence held by the Shell-Oxy oil company authorized prospecting only and that a new licence was needed for exploitation.

64. She urged the Sub-Commission to support the struggle of the indigenous peoples of Colombia to resist the homogenizing forces of globalization and defend their diversity and cultural identity through a healthy environment and an adequate budget for agricultural reform.

65. Mr. PARY (Indigenous World Association) said that the amended text of the draft United Nations declaration on the rights of indigenous people was under attack in the Working Group established by the Commission on Human Rights. There had been attempts to simplify the wording and restrict its political content and legal scope. The adoption of the declaration depended on the political will of States.

66. When indigenous peoples claimed the right to self-determination, government representatives warned that such a claim could lead to disintegration of the national territory. That was not true. The right to self-determination as defined in article 3 of the draft declaration simply provided for greater internal autonomy in the sense of self-government or self-administration. Indigenous peoples could then govern themselves in accordance with their own laws, playing an active political part in national life as subjects of a State based on the rule of law. Under customary law, which regulated social relations before the emergence of the State, self-determination was a natural attribute of peoples. It should be viewed as part of the dialectical process under way in a constantly changing society, a new dimension of national and international law designed to remedy age-old injustices and enhance national and cultural diversity.

67. Land was the most deep-rooted problem of the indigenous peoples. Mother Earth, which their ancestors had cultivated with respect and veneration, was being mutilated. He thanked the Special Rapporteur for her preliminary working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1997/17), which shed light on the historical and legal background to unjust land distribution.

68. The finest gesture that Governments could make as part of the International Decade of the World's Indigenous People would be to establish the permanent forum for indigenous people, appoint a high commissioner for indigenous peoples and convene a high-level conference on the indigenous issue, particularly the right to self-determination and the land question.

The meeting rose at 1.05 p.m.